

**United States Government**  
**NATIONAL LABOR RELATIONS BOARD**  
Region 18  
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Minneapolis, MN 55401-2221

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February 8, 2008

Mr. Michael Sweat  
MGS Professional Building Maintenance Services, Inc.  
3620 Central Avenue NE  
Minneapolis, MN 55418

Re: MGS PROFESSIONAL BUILDING MAINTENANCE SERVICES, INC.  
Case 18-RM-1379

Dear Mr. Sweat:

The above-captioned case, arising from a petition filed pursuant to Section 9(c) of the National Labor Relations Act, as amended, has been carefully investigated and considered.

As a result of the investigation, it appears that further proceedings are not warranted at this time. The investigation revealed that the Employer's employees are not currently represented by any labor organization. In support of this petition, the Employer provided evidence that on about June 18, 2007, Service Employees International Union Local 26 requested recognition by offering to demonstrate majority status among the Employer's window cleaning employees. The Employer, however, declined to accept Local 26's offer to review authorization cards allegedly signed by its employees. The Employer also offered evidence that between June 18 and November 13, 2007, union agents and unidentified persons engaged in handbilling, mass demonstrations, and other activities at customers' facilities, aimed at the public and the customers, intended to encourage them to replace the Employer with union-signatory contractors.

Section 9(c)(1)(B) of the Act makes a "present claim to be recognized" a prerequisite to processing an employer petition. See, e.g., *New Otani Hotel*, 331 NLRB 1078 (2000). Even once made, a union may withdraw a claim to be recognized by conduct or explicit statement. *Franklin Square Lumber Co.*, 114 NLRB 519 (1955). I find that the Union's appeals to third parties do not support finding a claim to be recognized, *Brylane, L.P.*, 318 NLRB 538 (2002), so the Union has not made a claim to be recognized since about June 2007. Even if the Union's subsequent third party appeals could be viewed as a continuation of its claim to be recognized, it still has done nothing since about mid-November 2007. Based on the investigation and these facts, I find insufficient evidence that the Union has a "present claim to be recognized." Accordingly, the petition is hereby dismissed.

Pursuant to the National Labor Relations Board Rules and Regulations, Series 8, as amended, you may obtain a review of this action by filing a request therefor with the National Labor Relations Board, addressed to the Executive Secretary, National Labor Relations Board, 1099 – 14<sup>th</sup> Street N.W., Washington, DC 20570. A copy of such request for review

February 11, 2008

must be served on the Regional Director and each of the other parties to the proceeding. This request for review must contain a complete statement setting forth the facts and reasons upon which it is based. The request for review (eight copies) must be received by the Executive Secretary of the Board in Washington, DC by the close of business on **February 22, 2008** at 5:00 p.m. Eastern Time. You should be advised that Section 102.114 of the Board's Rules and Regulations precludes acceptance of a request for review by facsimile transmission. Upon good cause shown, however, the Board may grant special permission for a longer period within which to file. The request for extension of time should be submitted to the Executive Secretary of the Board in Washington, DC, and a copy of any such request for extension of time should be submitted to the Regional Director and to each of the other parties to this proceeding. The request for review and any request for extension of time for filing must include a statement that a copy has been served on the Regional Director and on each of the other parties to this proceeding, and the copy must be served in the same or faster manner as that utilized in filing the request with the Board. When filing with the Board is accomplished by personal service, however, the other parties shall be promptly notified of such action by telephone, followed by service of a copy by mail.

In the Regional Office's initial correspondence, the parties were advised that the National Labor Relations Board has expanded the list of permissible documents that may be electronically filed with its offices. If a party wishes to file one of the documents which may now be filed electronically, please refer to the Attachment supplied with the Regional Office's initial correspondence for guidance in doing so. Guidance for E-filing can also be found on the National Labor Relations Board web site at [www.nlrb.gov](http://www.nlrb.gov). On the home page of the website, select the **E-Gov** tab and click on **E-Filing**. Then select the NLRB office for which you wish to E-File your documents. Detailed E-filing instructions explaining how to file the documents electronically will be displayed.

Very truly yours,

/s/ Robert W. Chester

Robert W. Chester  
Regional Director

RWC/ob  
Enc.  
cc:

Office of the Executive Secretary  
National Labor Relations Board  
1099 14<sup>th</sup> Street NW  
Washington, DC 20570-0001

SEIU Local 26  
312 Central Ave, Suite 356  
Minneapolis, MN 55414